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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,057	01/30/2004	Ichiro Atobe	0042-0492P	5480
2292 7590 02/23/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER LAZORCIK, JASON L	
			ART UNIT	PAPER NUMBER
			1731	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	02/23/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/23/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/767,057

Applicant(s)

ATOBE ET AL.

Examiner

Jason L. Lazorcik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Preliminary Remarks

Applicant is hereby notified of several antecedent basis issues in the claims as currently presented. Specifically, claim 6 recites limitations drawn to "the activated charcoal" and "the silica/alumina" without providing an unambiguous antecedent for either limitation.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over CN 2031615 in view of Tani et al (US. Pat. No. 6,457,475).

CN 2031615 discloses a filter which comprises two adsorbent sections (2) having a filter section (3) therebetween (Fig. 4), said filter being wrapped by a wrapper (1). The adsorbent sections can comprises activated carbon, zeolites, and any number of substances alone or in a mixture of two or more. It would have been obvious to one having ordinary skill in the art at the time of the invention to have placed one type of adsorbent in one adsorbent section (2) and another type of adsorbent in the other adsorbent section (2) in order to ensure that the smoke that goes through the first

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section is removed of certain smoke particles particularly susceptible to being adsorbed by one type of adsorbent, and the smoke that goes through the second filter is removed of certain other smoke particle that are particularly susceptible to being adsorbed by another type of adsorbent. Further, while there may be no disclosure that the filter materials are individually wrapped with a plug wrap paper; forming paper for wrapping the filter sections integrally, and tipping paper covering the forming paper, it would have been obvious to one having ordinary skill in the art at the time of the invention to have wrapped the filters in this manner since, as evidenced by Tani et al – such wrapper arrangement is known in the tobacco art (See fig. 2).

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over CN 2031615.

CN 2031615 discloses a filter which comprises two adsorbent sections (2) having a filter section (3) therebetween (Fig. 4), said filter being wrapped by a wrapper (1). The adsorbent sections can comprise activated carbon, zeolites, and any number of substances alone or in a mixture of two or more. While CN 2031615 may not disclose that this filter arrangement is provided in a cigarette holder, as claimed, this is not deemed to patentably distinguish the claims from this reference because it is well-known that cigarette holders often comprise filters located therein. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the filter of CN 2031615 in any of the conventional filtered cigarette holders in order to receive the benefits of improved adsorbing capacity these filters exhibit.

Response to Arguments

Applicant's arguments filed November 28, 2006 have been fully considered but they are not persuasive.

Reference CN 2031615 provides precedent for absorbent materials arranged in a cigarette filter in a substantially equivalent arrangement to that set forth in the presently claimed invention. Despite this point, Applicant argues that the prior art reference does not suggest the "synergetic effect" recognized by the applicant, and therefore the present invention could not have been obvious over the prior art disclosure. Examiner disagrees.

MPEP 716.02(d) clearly states that, "Whether the unexpected results are the result of unexpectedly improved results or a property not taught by the prior art, the **"objective evidence of nonobviousness must be commensurate in scope with the claims"** which the evidence is offered to support." In other words, the showing of unexpected results must be reviewed to see if the results occur over the entire claimed range. In re Clemens, 622 F.2d 1029, 1036, 206 USPQ289, 296 (CCPA 1980)".

In the instant case, Applicant provides no evidence of an unexpected result from the structure set forth in instant Claim 6 and only a single data point (Table 1) wherein a 50:50 mixture of silica/alumina and activated charcoal are loaded in a space between two filter elements (Claim 7). The limited number of species exemplified by Applicant does not provide an adequate basis for concluding that similar results would be obtained for the range of compositions and structures covered under the scope of the generic claims 6 and 7 as presented.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is strongly advised to consider the disclosure presented by Wise et. al. (US 3,658,069) in any response to the present office action. Briefly, Wise teaches a tobacco filter comprising an activated charcoal component and a molecular sieve (silica/alumina or zeolite) component positioned downstream therefrom (Column1, Lines 43-48). The reference continues by disclosing that the "charcoal and molecular sieve components may be deposited in solid particulate form in separate chambers within the filter defined by said plugs, or one or both thereof may be carried within the interstices of a creped paper of other appropriate plug-forming material adapted for the purpose." (Column 1, Lines 68-73).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

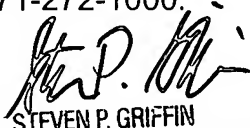
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason L. Lazorcik whose telephone number is (571) 272-2217. The examiner can normally be reached on Monday through Friday 8:30 am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JLL


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